

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA

v.

4:08CR33

RYAN SCOTT JAMES

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered guilty pleas to conspiracy with intent to distribute and to distribute cocaine, marijuana, amphetamines, methamphetamines, ecstasy, heroin, morphine, methadone, and oxycodone (Count 1), and using and carrying a firearm during and in relation to and in furtherance of drug trafficking (Count 2), in violation of 21 U.S.C. §§ 841(a)(1) and (Bb)(1)(B) & (c), and 18 U.S.C. § 924(c). On May 9, 2008, defendant appeared before the Court for the purpose of entering his guilty pleas. In the course of the proceeding, defendant acknowledged his understanding of the right to be indicted and expressly consented to proceeding on the criminal information of the United States Attorney. Defendant was represented by retained counsel, Franklin A. Swartz, Esquire.

Defendant was appropriate in appearance, responsive, and competently prepared for the hearing. He answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and

clearly understood the seriousness of his position. At the close of the proceeding, defendant was remanded to the custody of the United States Marshal, pending completion of a presentence report.

Defendant is twenty-seven years of age, is a college graduate, and speaks English as his native language. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment, and he was cooperative throughout the proceeding. During the colloquy, defendant admitted to receiving treatment in 2001 for depression, attention deficit disorder (ADD), and obsessive compulsive disorder. He also admitted to having received treatment for addiction to cocaine, heroin, alcohol, and prescription pain killers. However, there was no evidence that defendant was suffering from any of the described disorders or addictions at the time of his appearance and entry of his guilty pleas.

Defendant entered his guilty pleas pursuant to a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his pleas accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offenses charged are supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty pleas be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

/s/

James E. Bradberry
United States Magistrate Judge

Norfolk, Virginia

May 12, 2008